

REMARKS

As a preliminary matter, Applicant notes that Applicant received two separate communications from the USPTO: a Notice of Non-Compliant Amendment mailed on November 17, 2009 and a Final Office Action also mailed on November 17, 2009. Applicant has one month from the mailing date of the Notice of Non-Compliant Amendment to reply to the Notice of Non-Compliant Amendment. Applicant has a statutory period of three months to reply to the Final Office action also mailed on November 17, 2009.

Accordingly, this communication is responsive only to the Notice of Non-Compliant Amendment dated November 17, 2009. In response to the Notice of Non-Compliant Amendment, Applicant has amended the status identifier of claim 3 to indicate that the claim is new. **A separate and distinct response to the Final Office Action will be filed by the Applicant in due course.**

Claims 1 and 15 are currently being amended. Claim 3 is new. As a courtesy to the Examiner, the remainder of this response is similar to the original response filed on August 3, 2009.

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

This amendment changes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-24 are now pending in this application.

Status of Claims

Claim 3 was inadvertently left out of the preliminary amendment filed on July 13, 2006. In response, Applicant has added claim 3 in this reply. Claim 3 was included in the originally filed application.

IDS

The Office states that one of the references cited in the IDS is not in English and has not been considered. However, the absence of a translation or an English-language counterpart document does not relieve the PTO from its duty to consider any submitted document (37 CFR § 1.98 and MPEP § 609). Further, a copy of the ISR was attached to the IDS which set forth the portion of each document considered relevant by the examiner. Accordingly, Applicants request that the reference be considered.

Claim Rejections under 35 U.S.C. § 112

Claims 1, 2 and 4-24 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In response, without agreeing or acquiescing to the rejection, Applicants have amended claims 1 and 15 to adhere to the requirements under 35 U.S.C. § 112, second paragraph. Accordingly, Applicants request that the rejection be withdrawn and claims 1, 2 and 4-24 be allowed.

Claim Rejections under 35 U.S.C. § 103

Claims 1, 2 and 4-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,719,918 (“Sebetciouglu”) in view of U.S. Patent Publication No. 2003/0004876 (“Jacobson”). In response, Applicants traverse the rejection for the reasons set forth below.

Applicants rely on MPEP § 2143.03, which requires that all words in a claim must be considered in judging the patentability of that claim against the prior art. Here, the cited references do not identically disclose, teach or suggest all the claim limitations. *See In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Independent claim 1 is directed to a transaction device comprising, in addition to other elements, “an apparatus capable of setting up a wireless communication network with one or more mobile terminals, based on a connection protocol, as well as a communication with the

station, *wherein the apparatus is configured with a perimeter selected to cover a determined zone, close to the station... wherein the station is capable, upon presentation of the unique temporary code (IDT), of recovering, then completing as required, and validating the transaction*" (Emphasis added).

According to claim 1, the station is capable of carrying out a plurality of transactions, in parallel to each other. One part of the transaction is processed without the user being present at said station, but near that station. Then that part of the transaction is recovered when the user is present at said station which involves the recovering of the transaction upon presentation of the unique temporary code. Thus, the station can handle more user transactions within a given time.

In addition, the claimed apparatus is configured with a perimeter selected to cover a determined zone, close to the station. It is necessary that said first part of one transaction can be processed only when the user is close to the station. This ensures, for example, that the time needed by a user to reach said station is not too long. As a result, this avoids a situation where a transaction is suspended for too long and that too many transactions are pending in the station.

The fact that said determined zone is limited allows making an association between a user and one particular station. The user request is therefore addressed to this particular station due to the fact that he is located within the coverage zone associated with said station. Therefore, the user does not have to know any address information about the station as all the requests which are made within the coverage zone are addressed to the corresponding station. Accordingly, the claimed transaction device avoids large queues at the station by allowing one part of the transaction to be performed before the user reaches said station.

In contrast, the cited references do not disclose, teach or suggest each and every element recited in independent claim 1. Sebeticouglu is based on routing communication. According to Sebeticouglu, a mobile terminal has the ability to initiate a transaction via the air interface to a short message service center 300 using the short message capability of a network. The short message capability of that network is used in order to cause the mobile

terminal (POS) to communicate with an automatic teller machine (ATM). The short message service center is part of a cellular telephone network, that is a network that could be accessed from almost everywhere in the world and operates according to the GSM standard.

That is Sebetciouglu fails to disclose, teach or suggest that “the apparatus is configured with a perimeter selected to cover a determined zone, close to the station” as claimed in claim 1. Specifically, Sebetciouglu fails to disclose a determined zone close to the ATM within which a wireless communication could occurs with the ATM. Further, Sebetciouglu fails to disclose that the communication between the mobile terminal and the automatic teller machine is limited to a determined zone, close to the ATM.

Moreover Sebetciouglu fails to disclose a station capable of carrying out a transaction and *capable, upon presentation of the unique temporary code (UDT), of recovering a transaction.*

Similarly, Jacobson fails to disclose, teach or suggest *an apparatus* capable of setting up a wireless communication network with one or more terminal, based on the connection protocol, as well as a communication with a station, capable of carrying out transaction configured with a perimeter selected to cover determined zone, close to the station.

Jacobson discloses a mobile terminal 100 connected to a base station 116 via a radio channel 118 and antenna 102. Base station 116 is connected to a network. Network 120 is a conventional communication network such as internet, intranet, a telecommunication network, and the like. Jacobson teaches that network 120 can be a microcellular communication system, i.e. presents a small radius from the base station.

However, this does not indicate that the system according to Jacobson operates with a selected and limited perimeter arranged to cover a determined zone close to the station. Jacobson also fails to disclose a station that is capable of recovering a transaction. Jacobson only discloses a coupling between a credit card and a mobile terminal in order to improve the security of a transaction. Jacobson does not disclose any apparatus capable of recovering a transaction among a plurality of such transactions.

When determining whether a claim is obvious, an examiner must make “a searching comparison of the claimed invention – *including all its limitations* – with the teaching of the prior art.” *In re Ochiai*, 71 F.3d 1565, 1572 (Fed. Cir. 1995) (emphasis added). Thus, “obviousness requires a suggestion of all limitations in a claim.” *CFMT, Inc. v. Yieldup Intern. Corp.*, 349 F.3d 1333, 1342 (Fed. Cir. 2003) (*citing In re Royka*, 490 F.2d 981, 985 (CCPA 1974)). Here, the cited references fail to disclose each and every limitation in as complete detail as is contained in independent claim 1.

Claims 2-24 depend from independent claim 1 and should be allowed for the reasons set forth above without regard to further patentable limitations contained therein.

If this rejection of the claims is maintained, the examiner is respectfully requested to point out where the above-mentioned features are disclosed in the cited references.

Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the

Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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